

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANDREA CANTRELL, AS
PARENT/GUARDIAN, AND NEXT FRIEND
OF SADIE CANTRELL, A MINOR,

Plaintiff,

v.

11-CV-00044 KG/SMV

MARIANNE K. ALBASI,

Defendant.

ORDER

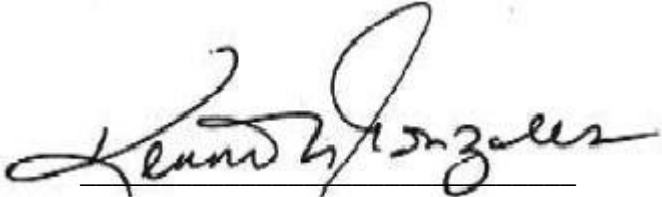
This matter comes before the Court on Plaintiff's Motion for Partial Judgment in the Amount of \$9,100. (Doc. 54). On January 13, 2011, Plaintiff Andrea Cantrell, as parent/guardian, and next of friend of Sadie Cantrell, a minor, filed a Complaint for Damages, Negligence and for Personal Injury. (Doc. 1). On October 20, 2011, Plaintiff filed an Amended Motion for Default Judgment. (Doc. 22). On February 29, 2012, United States District Court Judge Bruce D. Black granted the Amended Motion for Default Judgment. (Doc. 31). On February 14, 2013, Defendant filed a Motion to Set Aside Default. (Doc. 53). On December 2, 2013, this Court denied Defendant's Motion to Set Aside Default. (Doc. 70). Therefore, the default against Defendant remains.

Plaintiff's Complaint for Damages, Negligence and for Personal Injury does not assert a claim for damages in a sum certain or a sum that can be made certain by computation.

Consequently, Plaintiff must present the Court with proof of her damages before the Court can enter a default judgment for damages against Defendant. *See* Fed. R. Civ. P. 55(b); *DirecTV, Inc. v. Molina*, No. 03-53 MCA/ACT (D.N.M.), (Doc. 53) at *5-6.

For this reason, the Court will require Plaintiff to present proof of her damages, including the claim for \$9,100, by means of written submissions including affidavits and properly authenticated medical records. In addition, the Court will require Plaintiff to file a brief with argument and authority in support of the claims for damages against Defendant. The Court will also permit Defendant to file a response brief.

IT IS ORDERED that (1) Plaintiff file a brief on the issue of damages with the Court no later than January 10, 2014, attaching written proof of damages in the form of affidavits and other documentary evidence (with proper authentication); (2) Defendant may file a response brief with the Court no later than January 24, 2014; and (3) Plaintiff's Motion for Partial Judgment in the Amount of \$9,100 (Doc. 54) is deferred until the Court considers the damages briefing.



UNITED STATES DISTRICT JUDGE